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OFFICE OF GENERAL
COUNSEL

David Krikorian

Cincinnati, OH 45243

Complaint

v.

Victory Ohio SuperPAC

and

John Doe #1

Treasurer for Victory Ohio SuperPAC

and

John Doe #2

Assistant Treasurer for Victory Ohio SuperPAC

Respondents

SENSITIVE

MUR # 6560

COMPLAINT

Complainant files this complaint under 2 U.S.C. § 437g(a)(1) against Victory Ohio SuperPAC; John Doe #1; and John Doe #2, for violations of the Federal Elections Campaign Act of 1971, as amended (FECA or The Act), as described below.

A. FACTS

Complainant, David Krikorian, is a citizen of the United States of America, and was a candidate in the Democratic Party Primary Election for the United States Congress from Ohio's Second Congressional District in the March 6, 2012 election.

Upon information and belief, respondent Victory Ohio SuperPAC is a self-identified SuperPAC responsible for automated telephone calls ("Robocalls") made in the days leading up to the March 6, 2012 Democratic Primary Election.

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Upon information and belief, respondent John Doe #1 is the treasurer for Victory Ohio SuperPAC. As the treasurer, John Doe #1 is responsible for timely filing reports of receipts and expenditures in compliance with FECA.

Upon information and belief, respondent John Doe #2 is the assistant treasurer for Victory Ohio SuperPAC. As the assistant treasurer, John Doe #2 is responsible for timely filing reports of receipts and expenditures in compliance with FECA.

B. ROBOCALLS

In the last few days before Ohio's Primary election on March 6, 2012, Democratic voters in Ohio's Second Congressional District received "robocalls" regarding the Democratic Congressional Primary. The robocalls advocated in support of Barack Obama for President, Sherrod Brown for Senate, and William Smith for Congress.

The robocalls ran from approximately March 3, 2012 until approximately March 6, 2012. The message ran approximately 30 seconds as follows:

We're calling all Democrats and reminding them to cast your ballot for President Obama and Senator Brown on Tuesday. Also vote for William Smith for Congress. William Smith has an opponent that describes himself as a Reagan Conservative. William Smith's opponent was already sanctioned by the Ohio Elections Commission for not telling the truth. Please don't make a mistake and embarrass the party. Vote for William Smith, the real Democrat for Congress. This has been paid for by the Victory Ohio SuperPAC.¹

According to newspaper accounts, "A call recipient's caller ID system generated a non-working phone number from the Cleveland suburbs."²

¹ Two electronic recordings of this message is included on the accompanying CD; one running approximately 30 seconds and the second running approximately 23 seconds which does not include the thirt two sentences. Attached as Exhibit A.

² USA Today, "Mystery super PAC may have violated election law." Available online at <http://www.usatoday.com/news/politics/story/2012-03-09/william-smith-ohio-super-PAC/53439752/1>. A copy is attached as Exhibit B.

It is believed by political observers that these calls did in fact affect the outcome of the race.³

C. OHIO VICTORY SUPERPAC IS A "POLITICAL COMMITTEE"

Upon information and belief, Victory Ohio SuperPAC is a "committee, club, association or other group."⁴ Upon information and belief, Victory Ohio SuperPAC has received "contributions aggregating in excess of \$1000," or made "expenditures aggregating in excess of \$1000 during a calendar year."⁵ As such, Victory Ohio SuperPAC qualifies as a "Political Committee" under 11 C.F.R. 100.5(a).

D. OHIO VICTORY SUPERPAC MADE INDEPENDENT EXPENDITURES

"[A]n expenditure made by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents" is an "Independent Expenditure."⁶

The disclosure at the end of the robocalls declared, "This has been paid for by the Ohio Victory SuperPAC." As such, Ohio Victory SuperPAC, in paying for the robocalls, made an expenditure.

The robocalls expressly advocated in support of the election of three Federal candidates.

³ Wall Street Journal, "In Ohio, Mystery Robocalls Upend Race." Available online at <http://online.wsj.com/article/SB10001424052702303404704577314092671808170.html>. Attached as Exhibit C.

⁴ 11 C.F.R. 100.5(a).

⁵ *Id.*

⁶ 11. C.F.R. 100.16(a).

Upon information and belief, the expenditure for these robocalls was "not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents, or a political party committee or its agents."⁷ William Smith has denied any knowledge of the source of the robocalls.⁸

Therefore, in paying for the robocalls, Ohio Victory SuperPAC made "Independent Expenditures."

E. OHIO VICTORY SUPERPAC FAILED TO MAKE REQUISITE FILINGS

1. Statement of Organization

Ohio Victory SuperPAC, as a "political committee" under 11 U.S.C. 100.5(a) was required to file a Statement of Organization "no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.5."⁹

Upon information and belief, Ohio Victory SuperPAC became a political committee within the meaning of 11 CFR 100.5 at some time prior to the dissemination of the robocalls (i.e., prior to March 3, 2012). As such, Ohio Victory SuperPAC was required to file a Statement of Organization no later than March 13, 2012. A review of the committee filings online at the FEC website indicates that Ohio Victory SuperPAC has not, to date, filed a Statement of Organization.

2. Independent Expenditures aggregating \$1000 or more

Political Committees are required to report independent expenditures made within 20 days of an election aggregating \$1000 or more, no later than 11:59 pm Eastern Time of the day following the dissemination of the communication. Upon information and belief, the

⁷ *Id.*

⁸ Exhibit B, *Supra*.

⁹ 2 U.S.C. 433(a) & 11 C.F.R. 102.1(d).

independent expenditures made in paying for the robocalls occurred within 20 days of the Ohio Primary election. Upon information and belief the expenditures made in connection with the robocalls aggregated \$1000 or more. Upon information and belief the robocalls were disseminated beginning on March 3, 2012. Therefore, Ohio Victory SuperPAC was required to report the independent expenditures made in connection with the robocalls no later than 11:59 pm on March 4, 2012.

Ohio Victory SuperPAC has not, to date, reported the independent expenditures.

3. Quarterly Report

Political committees that are not authorized committees of candidates are required to file quarterly reports of receipts and distributions in election years.¹⁰ The report for the first quarter of 2012 was due April 15, 2012.¹¹

To date, Ohio Victory SuperPAC has not filed a quarterly report for the first quarter of 2012.

F. CONCLUSION

In light of the foregoing, it is clear that Ohio Victory SuperPAC has failed to register as a political committee; has failed to report independent expenditures; and has failed to file quarterly reports. Each of these failures is a violation of FECA.

¹⁰ 2 U.S.C. § 434(a)(4)(i) & 11 C.F.R. 104.5(c)(1).

¹¹ 2 U.S.C. § 434(a)(4)(i) & 11 C.F.R. 104.5(c)(1)(i)(A).

WHEREFORE, David Krikorian requests that the Federal Election Commission undertake an investigation and enforcement action regarding Respondents' failure to comply with FECA; to determine the identity of the Ohio Victory SuperPAC; to determine the sources of funding of Ohio Victory SuperPAC; and to forward their findings to the appropriate law enforcement agencies for prosecution.

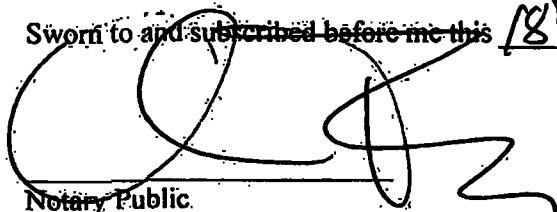

David Krikorian

Cincinnati, OH 45243

David Krikorian hereby verifies that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.


David Krikorian

Sworn to and subscribed before me this 18th day of April, 2012


Notary Public.



CHRISTOPHER P. FINNEY
ATTORNEY AT LAW
Notary Public, State of Ohio
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Mystery super PAC may have violated election law

By Gregory Korte and Fredrika Schouten, USA TODAY

Updated 3/9/2012 5:48 PM

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WASHINGTON – Four days before Ohio's primary election, Democratic voters in the 2nd Congressional District received a blitz of automated telephone calls supporting William R. Smith, a candidate who didn't campaign, raised no money and gave no media interviews before the election.

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On election night, Smith won by 59 votes against a well-known, better funded and harder working candidate who had the endorsement of major Democratic groups.

So who gets credit for helping Smith secure the Democratic nomination to Congress? No one knows.

The "Victory Ohio Super PAC" claimed credit for the "robocalls," but it is not registered with the Federal Election Commission and hasn't disclosed any contributions or spending to federal regulators.

Campaign-finance experts say the group probably has violated federal election law. Under federal rules, groups must report last-minute activity to the FEC if they spend

more than \$1,000 on automated calls, mailings or advertising that directly advocate the election or defeat of a federal candidate. Such spending must be reported within 24 hours.

"This activity does require disclosure," said Kenneth Gross, a former Federal Election Commission official and a leading campaign-finance lawyer in Washington.

Smith now faces Cincinnati podiatrist and Army Reserve Lt. Col. Brad Wenstrup, who pulled off an upset of his own against four-term Rep. Jean Schmidt.

Wenstrup got a boost from conservative anti-tax groups and a legally registered super PAC, the Campaign for Primary Accountability, which is working to defeat congressional incumbents in several states. The group reported spending \$66,836 against Schmidt in the week before the election.

A 61-year-old former postal worker from the small town of

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Waverl ith says he made less than \$15,000 last year driving a truck. His reasons for running are a "long complicated story," he said.



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His issues: the mistreatment of veterans by the Department of Veterans Affairs, tighter regulation of the mortgage industry, and federal rules on how long truckers can drive before they have to rest. All, he said, are informed by his family's own experiences.

"If you had to produce a prototype for the absolute common man, that's what you get. He drives a truck. He lives with his mother," said Blaine Beekman, a Pike County commissioner who helped circulate Smith's nominating petitions. "People call him the 'mystery candidate.' He's really the impossible candidate."

Victory Ohio "clearly exists somewhere, because it spent a lot of money," Beekman said. But he said he has no idea who it could be. "To be frank with you, there's no one in Pike County that would have the money to do these things. We have the highest unemployment rate in Ohio."

Smith defeated David Krikorian, a three-time candidate who ran with the endorsement of major Democratic groups in the district. Krikorian's campaign spent \$64,356, according to the FEC, though he said only about \$5,000 of that was for the current election cycle.

Krikorian has a longstanding feud with Schmidt over her support from Turkish causes. Krikorian, an ethnic Armenian, has accused Schmidt of denying the Armenian genocide during and after World War I, and their battles escalated into a \$6.8 million libel suit by Schmidt still pending in Ohio courts.

Her legal fees — about \$500,000 — were paid by Turkish interests, which led to a House Ethics Committee investigation because she failed to disclose the source. The committee ordered her to repay the money but didn't sanction her because the panel concluded she did "not knowingly" violate ethics rules that prevent such gift-giving.

One version of the robocall took aim at Krikorian: "William Smith has an opponent that describes himself as a Reagan conservative. & Please don't make a mistake and embarrass the party. Vote for William Smith, the real Democrat for Congress."

The recorded call ended with the disclosure, "This has been paid for by the Victory Ohio Super PAC." Neither the FEC nor Ohio's Secretary of State have any record of such a group. A call recipient's caller ID system generated a non-working phone number from the Cleveland suburbs.

"Honestly, the more I think about this, the more mysterious it becomes. Something is fishy," said Clermont County Democratic Chairman David Lane.

"Robocalls are pretty cheap, but they did enough of them I have a hard time believing they spent less than \$1,000," said Caleb Faux, the director of the Hamilton County Democratic Party who, like Lane, has never met Smith. "Who are they, what is their motivation, where did their money come from?"

Republicans agree. "If a Republican did it, I don't know about it," said Alex Triantafyllou, the GOP chairman in Hamilton County. "Somebody should put a stop to it. That kind of thing should not occur in politics. Transparency is crucial. I hope someone fully investigates it."

Paul Ryan, a lawyer with the Campaign Legal Center watchdog group, said the group broke the rules if it spent more than \$1,000.

"Ohio voters seemingly had no information about who was trying to influence their election with last-minute robocalls," Ryan said. "Ohio voters deserve that information."

Smith told USA TODAY that he's as surprised as anyone that he won, but he credits the robocalls — and perhaps his prayers. In only his second media interview, he said he doesn't know the source of the help but suspects Republicans who "were looking at my

inactivity and my access to no funding" figured he was less of a threat to the Republican nominee.

"Whatever the source of that is, I'll take it," he said.

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Theodosius Mandelbrot · Top Commenter · Works at All continents but Antarctica.

Nobody has even seen this guy, and he gets elected on the basis of robocalls? I hope that people learn their lesson and find out about the candidates before voting ... that's how democracy works best, is with an informed public.

Reply · 16 · Like · March 9 at 12:27pm



Judy Fraizer · Top Commenter · Irving High School

Would have been very nice if they'd done all of that before they elected the guy in the WH now. Hindsight...

Reply · 8 · Like · March 9 at 12:37pm



Theodosius Mandelbrot · Top Commenter · Works at All continents but Antarctica.

Judy Fraizer - I did, and I voted for him.

Reply · 15 · Like · March 9 at 12:43pm



Savage Bob · Top Commenter

Judy Fraizer O was black...that's all his voters needed to know.

Reply · 7 · Like · March 9 at 1:00pm

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Martin Keller · Top Commenter · Minnesota

Instead of responding to that idiot, I will start a thread here.

This is a GOP strategy that dates back to Nixon-Watergate. Get the LEAST electable Democrat on the ballot. Make sure the VIABLE candidate gets screwed by ANY means possible. Karl Rove learned from the best...

Reply · 8 · Like · March 9 at 1:24pm



Don Demarco · Top Commenter

It did not work in 2008 though, too bad, Obama has pretty much destroyed the economy. Oh well, this time he has a record and we are vetting his past now.

Reply · Like · March 13 at 2:04am



Jerry Gelger · Top Commenter · NCSU

Sounds like a "stealth" candidate and PAC to me.

Reply · 6 · Like · March 9 at 12:45pm



Slick Fibonacci · Top Commenter · Intergalactic University

There is a good chance of that, being that the local party leaders have never even met

the guy.

Reply · 3 · Like · March 9 at 1:00pm

 Jerry Geiger · Top Commenter · NCSU

It'll be interesting when they track this down (and they will) to see which "side" they are on. I have my guess, but I'll withhold it for now. Given where politics in this country has gotten my probability of being correct is probably only 50.0099%.

Reply · 4 · Like · March 9 at 1:06pm

 Preston Lenze · Top Commenter · George Washington High school, New York, NY

Since it involves a Democrat, do you really think anything will come of it?

Reply · 3 · Like · March 9 at 12:54pm

 Slick Fibonacci · Top Commenter · Intergalactic University

Yes. Even if he is a Democrat. But I think Jerry Geiger might be on to something when he suggests that the guy might be a stealth candidate, especially since none of the leading Democrats in the region know him.

Reply · 9 · Like · March 9 at 1:02pm

 Martin Keller · Top Commenter · Minnesota

Do you know ANY history? This is a GOP strategy that dates back to Nixon-Watergate. Get the LEAST electable Democrat on the ballot. Make sure the VIABLE candidate gets screwed by ANY means possible. Karl Rove learned from the best...

Reply · 5 · Like · March 9 at 1:23pm

 Jim Trueman · Nova Southeastern University

Martin Keller Actually its probably a Red Herring where the Dems did do it but in a way to make it look like a dirty trick by the Reps - THAT is the ugly state of current politics by BOTH sides.

Reply · Like · March 9 at 2:49pm

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 Martin Keller · Top Commenter · Minnesota

Remember that dude from South Carolina back in 08? Now Joe the Plumber is running for office? Politics have become a joke. I think it was Will Rogers that said "Politics are too important to be left to politicians". During the first 150 years of this country, politicians had little affect on the countries welfare.

This Supercap probably spent more than this truck driver earned last year. Gotta wonder...

Reply · 2 · Like · March 9 at 1:37pm

 Doug Brown · Top Commenter · Midland, Texas

What about Al Franken from SNL?

Reply · 2 · Like · March 9 at 1:53pm

 Bill Halm · Top Commenter

This is coming from Minnesota. The land of wrestlers and unfunny comics becoming politicians

Reply · Like · March 9 at 2:16pm

 Eugene Kent · Bethel, Ohio

He made \$15,000 according to his comments. Bill the long haul Trucker now is as famous as Joe the Plumber.

Reply · Like · March 10 at 3:09pm

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 Dennis Buckley · Top Commenter · Groton High School, Groton, MA

Just shows how Ignorant Ohio Democrats are.

Reply · 1 · Like · March 9 at 3:52pm

 Eugene Kent · Bethel, Ohio

Not so. Just shows how they remember. They knew who Krikorian is, and what he did too Wulsin and Book who was also from the Pike County area.

Reply · Like · March 10 at 3:21pm

 Mark Schlueter · Augustana College

I understand that we had to give corporations an Identity 100 years ago; so they could engage in legal contracts like people and partnerships could. How the Supreme Court felt that corporations needed an identity for more than that is questionable. Now that unlimited money can come from corporations, unions and private people has opened up a powerful marketing tool. BUT BUT what this really says is how poorly the people in our country are involved in politics. I don't know if the Independents could vote in this election but how were the democrats persuaded when they did

not even know the person?
Reply · Like · March 10 at 8:29am



Eugene Kent · Bethel, Ohio

In Ohio it is easy to cross over. All you have to say is that you voted for two political candidates of the party that you want to vote in the past election.

Reply · Like · March 10 at 3:18pm



Mark Schlueter · Augustana College

Interesting

Reply · Like · March 11 at 7:03pm



Norbert J Kelsey · Top Commenter

I remember Ohio, Cleveland version where people dead for last 29 years vote, in primaries and main elections, and where your name as a challenger or challenger got u elected. no surprise; surprise is someone noticed.

Reply · Like · March 9 at 2:04pm



Eugene Kent · Bethel, Ohio

That happens all the time and the robo calls were suppose to have originated from near Cleveland.

Reply · Like · March 10 at 3:12pm



Richard Roush · Denison University

It was probably a right wing PAC that backed him against a stronger Democratic candidate to give the Republican he'll be running against in the fall a better chance of winning.

Reply · Like · March 9 at 3:29pm



Tim Talarico · Top Commenter · Harvard University

someone needs to look into paul ryan...i think it's a little more than coincidence that this happened....

Reply · Like · March 9 at 12:39pm

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POLITICS | Updated March 31, 2012, 12:44 p.m. ET

In Ohio, Mystery Robo-Calls Upend Race

By ALICIA MUNDY

A mysterious group involved in the upset of an Ohio Democrat during the congressional primary earlier this month continues to befuddle both the loser and winner of that race, as well as the Justice Department.

David Krikorian, a Cincinnati-area Democrat, appeared to have his party's nomination locked up, giving him a chance to take on a vulnerable Republican incumbent, Rep. Jean Schmidt. But Mr. Krikorian was upended by a 61-year-old truck driver who made \$15,000 last year, didn't campaign and was unknown to the Democratic Party in the Cincinnati area district.

The trucker, William Smith, benefited from a series of robo-calls suggesting President Barack Obama supported him. The messages said they came from the "Victory Ohio" super PAC, but neither the Federal Election Commission or the Ohio State elections board has a record of such a group.

For weeks, Mr. Krikorian, 44, an Armenian-American, has said he believes Turkish-Americans and operatives with the Turkish Coalition of America were behind the calls. Mr. Krikorian has been involved in several public disputes over Turkish-American groups' financial support of Ms. Schmidt. Tensions between Armenians and Turks go back 100 years to the Turkish massacre and deportations of more than one million Armenians.

Ms. Schmidt also lost her primary to physician Brad Wenstrup, who will likely win the House seat in the solid Republican district.

This week, a new FEC report showed the Turkish Coalition of America's political-action committee, which has denied any involvement in the robo-calls, donated \$1,000 to the Ohio Congressional Victory Fund in late February. Mr. Krikorian at first said the report showed a link between robo-calls and the Turkish-American group, but that connection didn't seem to pan out.

The Ohio Congressional Victory Fund is part of Athens, Ga.-based PDS Compliance Inc., a longtime Republican campaign accounting operation. "All the committees here are registered with the FEC," said PDS President Paul Kilgore. He noted this company manages the "Ohio 2012 Victory Fund," not "Victory Ohio." He added: "We don't know anything about them—if you find out, let us know, cause we're getting a lot of questions."

G. Lincoln McCurdy, treasurer of the Turkish Coalition of America's PAC, said in a statement that the \$1,000 contribution was for an Ohio GOP congressional fund-raiser on Feb. 16, hosted by House Speaker John Boehner (R., Ohio). He said the PAC "had no involvement in or awareness of unregistered PAC activities, including Victory Ohio Super PAC, in recent Ohio congressional primary elections."

The U.S. Attorney in southern Ohio has begun examining whether the robo-call group violated federal-election disclosure laws. Fred Alverson, a spokesman for the U.S. Attorney, confirmed that the government is reviewing the situation; he called it unusual, but wouldn't say more.

Mr. Smith, for his part, said that he had just filed to run in December to get some "empathy for the working people" and has no idea who ran the automated call campaign. He said he spent just a few hundred dollars campaigning, mostly on filing fees and gasoline to drive around the district, reaching out to people "at convenience stores, gas stations, that sort of thing."

On primary night, he said he was in his 18-wheeler driving between Cincinnati and Cleveland when he got a call from a friend saying, "Butch, you've won the nomination for the Democratic Party."

"I said, 'Sparky, please don't mess with me, it's not funny,' " said Mr. Smith.

Corrections & Amplifications

The Turkish Coalition of America's political-action committee donated to the Ohio Congressional Victory Fund, an FEC report says. An earlier version of this article incorrectly called the group the Turkish American Coalition, and didn't specify that the donation was made by its PAC.

—Douglas Belkin contributed to this article.

Write to Alicia Mundy at alicia.mundy@wsj.com

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